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Attorneys for Defendants Romeo Aranas,
Bruce Bannister, James Cox, Sheryl Foster,
Ira Hollingsworth, Roy Hookham,
Nevada Board of State Prison Commissioners,
Nevada Department of Corrections,
Dwight Neven, and Brian Williams

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DONALD MOON,

Plaintiff,

vs.

James Cox, *et al.*,

Defendants.

CASE NO. 2:14-cv-02140-APG-GWF

**STIPULATION AND ORDER TO
EXTEND SCHEDULING ORDER AND
REQUEST MAGISTRATE JUDGE
SETTLEMENT CONFERENCE**

Consolidated with Case No. 2:16-cv-02082-
APG-PAL

DONALD J. BOGOTAITIS,

Plaintiff,

vs.

STATE OF NEVADA, ex rel, the BOARD
OF COMMISSIONERS, *et al.*,

Defendants.

The parties, via counsel, hereby request this Court schedule a settlement conference for the parties in this case on one of the dates indicated below. The reason both counsel make this request is that they believe the case is presently in the posture for constructive settlement negotiations and they wish to avoid the impending motion practice that will

1 ensue relating to injunctive relief and dispositive issues. The request is made in earnest
2 and in good faith as the parties have had significant settlement discussion.

3 Pursuant to LR 6-1 and LR 26-4, the parties, by and through their respective counsel
4 of record, in lieu of the requested settlement conference hereby jointly request that this
5 Honorable Court extend the deadline for scheduling order accordingly and continue the
6 discovery period for forty-five (45) days after the requested settlement conference, and that
7 the dispositive motion be continued to seventy-five (75) days after the same.

8 Counsel notes that the two above cases were consolidated on December 12, 2016 as
9 they both involved common questions of law and fact. The Settlement Conference will
10 encompass both matters.

11 **I. PROCEDURAL POSTURE**

12 **A. Discovery Completed pursuant to Local Rule 26-4**

13 Discovery is set to conclude on August 5, 2017. Based upon constructive settlement
14 discussions with NDOC Deputy Director David Tristan, the parties had agreed to delay
15 written discovery in an effort to reduce litigation fees as the parties discussed settlement
16 values and relevant 'time credit' matters relevant to both Plaintiffs.

17 **B. Reasons that Dispositive Motions Cannot be Completed within the**
18 **Date Set by Scheduling Order**

19 The parties have concentrated their efforts over the last months on the material
20 revision of the subject housing policy that Moon and Bogotaitis have alleged as
21 unconstitutional. The parties have long agreed that a meaningful settlement conference,
22 rather dispositive motions will provide a mutually agreeable resolution. Due to the nature
23 of these talks and the length of time it has taken to undertake Administrative Regulation
24 revisions, the parties had agreed not to pursue discovery or motion practice in an effort to
25 spare fees and costs associated with drafting dispositive motions.

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1 The parties agree that extending the discovery and motion deadline to forty-five and
2 seventy-five days after the Settlement Conference will provide sufficient time to draft
3 dispositive motions in the event that a settlement is not reached. Further an extension of
4 this length will not significantly delay the litigation of this matter.

5 **C. Remaining Discovery**

6 The parties do not contemplate additional discovery at this junction. However, the
7 parties will provide an outline to the Court of proposed discovery if the matters do not reach
8 a resolution.

9 **D. Proposed Schedule**

- 10 • Discovery Deadline Forty Five days after Settlement Conference
11 • Dispositive Motion Deadline Seventy-Five days after Conference

12 For purposes of this Motion and anticipated scheduling order, the parties have a
13 mutual understanding and agreement that the term “dispositive motions” shall include
14 motions for summary judgment or adjudication of the issues, as well as motions for
15 preliminary injunction or similarly plead motions requesting equitable relief.

16 **II. GOOD CAUSE EXISTS TO EXTEND PENDING DEADLINES**

17 The parties have demonstrated good faith in conducting all discovery and in
18 stipulating to agree to a Settlement Conference. In requesting this joint motion, the parties
19 have followed the required meet and confer rules required to obtain compliance and to
20 determine scheduling dates without contentious motion practice.

21 **III. SETTLEMENT CONFERENCE**

22 **A. PARTY AVAILABILITY AND LOGISTICAL CONCERNS**

23 Mr. Moon and Mr. Bogotaitis are no longer in the custody of the NDOC and
24 anticipate attending a Settlement Conference in person, with counsel.

25 Defendants Bruce Bannister, James Cox, and Sheryl Foster are all retired and no
26 longer reside in Las Vegas. The parties would request that they be excused as they do not
27 have current knowledge as to the revised Housing policy, their presence is not necessary
28 for successful negotiations and the cost to fly these persons to Las Vegas is inversely

1 proportional to their actual knowledge and participation in the case. Alternatively, the
2 parties request that the out of town Defendants be permitted to participate telephonically.

3 Additionally, Plaintiff Bogotaitis has served the Nevada Board of Prison
4 Commissioners as an entity and each State officer in their official capacity. The State of
5 Nevada respectfully seeks to have one individual from the Nevada Department of
6 Corrections to attend with authority on their behalf as to this matter. Defense Counsel
7 maintains that this approach will allow for the best potential resolution of pending issues
8 and facilitate good faith negotiations.

9 **B. AVAILABLE DATES FOR SETTLEMENT CONFERENCE**

10 The parties, recognizing that inmate mediation conferences are usually entertained
11 by this Court on Fridays, submit the following viable dates for settlement Conference:

- 12 • September 1, 2017;
- 13 • October 6, 2017;
- 14 • October 20, 2017;
- 15 • October 27, 2017.

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1 **IV. CONCLUSION**

2 Based upon the foregoing reasons, the parties request that this Court grant the
3 requested relief and continue deadlines as requested herein.

4 **RESPECTFULLY SUBMITTED,**

5 **DATED:** June 13, 2017.

DATED: June 13, 2017.

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7 **GALLIAN WELKER &
BECKSTROM, L.C.**

ADAM PAUL LAXALT
Nevada Attorney General

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10 **By: /s/ Travis Barrick**

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In conjunction with the Pro Bono
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By: /s/ Frank A. Toddre II

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Sheryl Foster, Romeo Aranas, Bruce
Bannister, James Cox, Ira Hollingsworth,
Roy Hookham, Dwight Neven, Brian
Williams, Nevada Board of State Prison
Commissioners, Nevada Department
of Corrections

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18 **ORDER:**

19 **GOOD CAUSE APPEARING,** The parties and their counsel shall appear and be prepared
20 to participate in a settlement conference before this court on or before September 30, 2017.

21 The Discovery deadline is accordingly set at: October 16, 2017

22 The Dispositive motion deadline is set at: November 15, 2017

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25 MAGISTRATE JUDGE
26 UNITED STATES DISTRICT COURT
27 DISTRICT OF NEVADA
28 Dated: 6/23/2017